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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/623,360	07/18/2003	Ching-Cherng Lee	DCS-9176	5052

34500 7590 02/22/2007
DADE BEHRING INC.
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DEERFIELD, IL 60015

EXAMINER

EL ARINI, ZEINAB

ART UNIT	PAPER NUMBER
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1746

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/22/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/623,360

Applicant(s)

LEE ET. AL.

Examiner

Zeinab E. EL-Arini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 6-11 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 12-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The amendment and remarks filed 12/1/06 have been acknowledged and entered.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell (5,679,309) in combination with Sakagami (4,785,407) and Jordan (4,325,910).

Bell as discussed supra in paper No. 093005 discloses a method for cleansing a used reaction cuvette. The method comprises cleaning the used cuvette before a first group and second group of assays have been scheduled to be next performed in the cuvette, and cleaning the cuvette when a first group and second group of assays have been previously performed in the cuvette. See Fig. 5, col. 3, lines 32-58, col. 5, and col.10, lines 29-39. Bell further discloses that dependent upon the assay selected from the menu to be run on a particular sample and its assay sequence, washing may be vary from assay to assay. See col. 5, lines 21-26.

Bell as discussed supra does not teach, the assays (claim 2) and the discharging (claim 5), the number of cleansing operation (claims 4, 14) the drying (claims 3, 13). The step of examining the identity of assays, the cuvette is cleansed by first series of cleansing operations, and a second different series of cleansing operations is inherent in Bell process. See col. 5, lines 21-26.

Sakagami discloses automatic chemical analyzer with selective removal reaction vessel. The reference discloses detecting the dirtiness level of the cuvette during cleaning, if it is larger than the threshold level, a washing agent liquid is poured in the cuvette. See col. 5, lines 14-32, 37-56, col. 6, lines 2-11, and Figs.4 and 6.

Jordan discloses a method of washing and drying the reaction vessel and the cuvette elements, and the suctioning or discharging step. See col. 12, lines 45-48, col. 13, lines 12-17, Fig. 4.

It would have been obvious for one skilled in the art to use the drying, the discharging taught by Jordan and the detecting step taught by Sakagami in the Bell process to improve the cleaning process. The assays as claimed are inherent in Bell system. It would have been obvious for one skilled in the art to repeat the washing and rinsing to obtain optimum results. The examining and cleansing steps as claimed in claims 1 and 12 are inherent in Bell system.

This rejection stated in paper No. 20060712 is maintained.

The rejection under 35 U.S.C. 112, second paragraph stated in paper No. 20060712 has been withdrawn in view of applicant's amendment.

Response to Arguments

3. Applicant's arguments filed 12/1/06 have been fully considered but they are not persuasive. Applicant's argument with respect to Bell is unpersuasive, for the reason set forth on col. 5, lines 21-26. Applicant's argument is unpersuasive for the reason set forth before in paper No.20060712.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zeinab E. EL-Arini whose telephone number is (571) 272-1301. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Zeinab E. EL-Arini
Zeinab E. EL-Arini
Primary Examiner
Art Unit 1746

ZEE
2/16/07